

2003 DRAFTING REQUEST

Bill

Received: 12/15/2003

Received By: rchampag

Wanted: As time permits

Identical to LRB:

For: James Kreuser (608) 266-5504

By/Representing: Joe Kremer

This file may be shown to any legislator: NO

Drafter: rchampag

May Contact:

Addl. Drafters: mshovers
jkreye

Subject: State Finance - investment board
State Finance - miscellaneous
Tax (indiv) - deduct/subtract
Tax - corp. inc. and fran.

Extra Copies:

Submit via email: YES

Requester's email: Rep.Kreuser@legis.state.wi.us

Carbon copy (CC:) to: joseph.kreye@legis.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Investment of certain private sector employer and employee moneys, income tax exemptions

Instructions:

See Attached.

Drafting History:

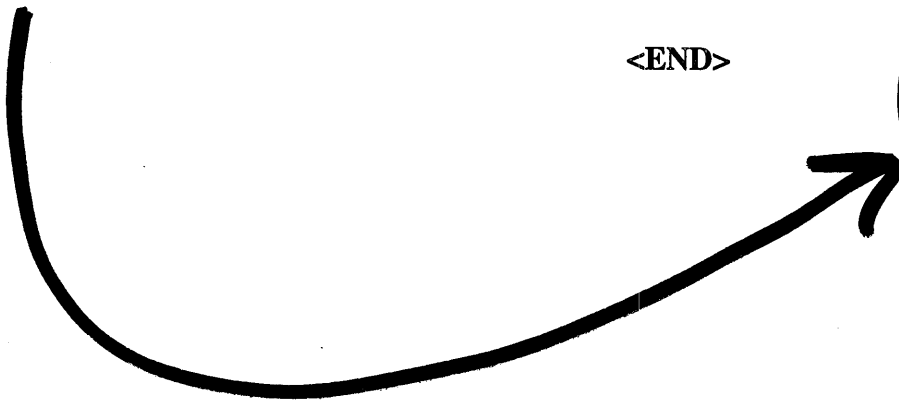
<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							State
/1	rchampag 01/12/2004	kgilfoy 01/12/2004	pgreensl 01/13/2004		lemery 01/13/2004		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/2	mshovers 01/14/2004 jkreye 01/14/2004	kgilfoy 01/14/2004	pgreensl 01/15/2004	_____	sbasford 01/15/2004		State Tax
/3	rchampag 01/26/2004	kgilfoy 01/26/2004	jfrantze 01/26/2004	_____	sbasford 01/26/2004		State Tax
/4	rchampag 02/02/2004	kgilfoy 02/02/2004	rschluet 02/03/2004	_____	lemery 02/03/2004	lemery 02/04/2004	State Tax

FE Sent For: ~~01/14/2004~~, 01/15/2004, ~~01/26/2004~~, 01/26/2004, ~~02/03/2004~~, 02/03/2004.

<END>

("4")



2003 DRAFTING REQUEST

Bill

Received: **12/15/2003**

Received By: **rchampag**

Wanted: **As time permits**

Identical to LRB:

For: **James Kreuser (608) 266-5504**

By/Representing: **Joe Kremer**

This file may be shown to any legislator: **NO**

Drafter: **rchampag**

May Contact:

Addl. Drafters: **mshovers
jkreye**

Subject: **State Finance - investment board
State Finance - miscellaneous
Tax (indiv) - deduct/subtract
Tax - corp. inc. and fran.**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Kreuser@legis.state.wi.us**

Carbon copy (CC:) to: **joseph.kreye@legis.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

Investment of certain private sector employer and employee moneys, income tax exemptions

Instructions:

See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							State
/1	rchampag 01/12/2004	kgilfoy 01/12/2004	pgreensl 01/13/2004		lemery 01/13/2004		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/2	mshovers 01/14/2004 jkreye 01/14/2004	kgilfoy 01/14/2004	pgreensl 01/15/2004	_____	sbasford 01/15/2004		State Tax
/3	rchampag 01/26/2004	kgilfoy 01/26/2004	jfrantze 01/26/2004	_____	sbasford 01/26/2004		State Tax
/4	rchampag 02/02/2004	kgilfoy 02/02/2004	rschluet 02/03/2004	_____	lemery 02/03/2004		State Tax

FE Sent For: 01/15/2004, 01/15/2004, 01/26/2004, 01/26/2004.

"/4" 2/3/04
RAC

<END>

2003 DRAFTING REQUEST**Bill**Received: **12/15/2003**Received By: **rchampag**Wanted: **As time permits**

Identical to LRB:

For: **James Kreuser (608) 266-5504**By/Representing: **Joe Kremer**This file may be shown to any legislator: **NO**Drafter: **rchampag**

May Contact:

Addl. Drafters: **mshovers
jkreye**

Subject: **State Finance - investment board
State Finance - miscellaneous
Tax (indiv) - deduct/subtract
Tax - corp. inc. and fran.**

Extra Copies:

Submit via email: **YES**Requester's email: **Rep.Kreuser@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Investment of certain private sector employer and employee moneys, income tax exemptions

Instructions:

See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							State
/1	rchampag 01/12/2004	kgilfoy 01/12/2004	pgreensl 01/13/2004		lemery 01/13/2004		State

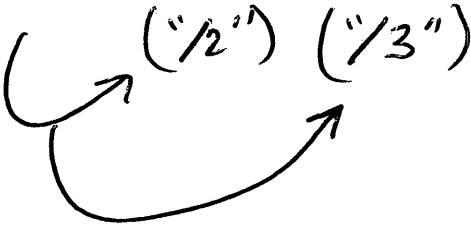
14-2/2
Kmg

3 4 CH

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/2	mshovers 01/14/2004 jkreye 01/14/2004	kgilfoy 01/14/2004	pgreensl 01/15/2004	_____	sbasford 01/15/2004		State Tax
/3	rchampag 01/26/2004	kgilfoy 01/26/2004	jfrantze 01/26/2004	_____	sbasford 01/26/2004		State Tax

FE Sent For: 01/15/2004, 01/26/2004.

(1/2") (1/3")



<END>

2003 DRAFTING REQUEST**Bill**Received: **12/15/2003**Received By: **rchampag**Wanted: **As time permits**

Identical to LRB:

For: **James Kreuser (608) 266-5504**By/Representing: **Joe Kremer**This file may be shown to any legislator: **NO**Drafter: **rchampag**

May Contact:

Addl. Drafters: **mshovers
jkreye**Subject: **State Finance - investment board
State Finance - miscellaneous
Tax (indiv) - deduct/subtract
Tax - corp. inc. and fran.**Extra Copies: **KMG**Submit via email: **YES**Requester's email: **Rep.Kreuser@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Investment of certain private sector employer and employee moneys, income tax exemptions

Instructions:

See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							State
/1	rchampag 01/12/2004	kgilfoy 01/12/2004	pgreensl 01/13/2004		lemery 01/13/2004		State

Handwritten signatures and dates:
 1/24
 1/24

Handwritten note in a circle:
 SEND FOR
 FE

01/15/2004 10:40:52 AM

Page 2

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
--------------	----------------	-----------------	--------------	----------------	------------------	-----------------	-----------------

/2	mshovers	kgilfoy	pgreensl	_____	sbasford		State
	01/14/2004	01/14/2004	01/15/2004	_____	01/15/2004		Tax
	jkreye			_____			
	01/14/2004			_____			

FE Sent For:

*1/2" 1/15/04

<END>

per
RAC

"1/3" RAC
1/26/04

2003 DRAFTING REQUEST**Bill**Received: **12/15/2003**Received By: **rchampag**Wanted: **As time permits**

Identical to LRB:

For: **James Kreuser (608) 266-5504**By/Representing: **Joe Kremer**This file may be shown to any legislator: **NO**Drafter: **rchampag**

May Contact:

Addl. Drafters:

Subject: **State Finance - investment board
State Finance - miscellaneous**

Extra Copies:

Submit via email: **YES**Requester's email: **Rep.Kreuser@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Investment of certain private sector employer and employee moneys

Instructions:

See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1/2		12-1/14 kmg					State
1/1	rchampag 01/12/2004	kgilfox 01/12/2004	pgreensl 01/13/2004	1/15 1/15	lemery 01/13/2004		State
12 MES 1/14/04							
FE Sent For:							
1/14 PS							
1/15 PS							

2003 DRAFTING REQUEST**Bill**Received: **12/15/2003**Received By: **rchampag**Wanted: **As time permits**

Identical to LRB:

For: **James Kreuser (608) 266-5504**By/Representing: **Joe Kremer**This file may be shown to any legislator: **NO**Drafter: **rchampag**

May Contact:

Addl. Drafters:

Subject: **State Finance - investment board
State Finance - miscellaneous**

Extra Copies:

Submit via email: **YES**Requester's email: **Rep.Kreuser@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Investment of certain private sector employer and employee moneys

Instructions:

See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1/?	rchampag	1-1/12 kmj	1/13 ps	1/13 ps/gk			

FE Sent For:

<END>

Champagne, Rick

From: Kremer, Joe
Sent: Monday, December 15, 2003 10:37 AM
To: Champagne, Rick
Subject: Bill Drafts

Rick,

Please find details of the bills below, feel free to call or e-mail with questions or comments. Offhand do you know about how long it will take to get a draft?

Best,

Joe

Wisconsin Voluntary Investment Program (Wisconsin VIP)

Allows eligible employees and employers to participate a retirement plan -

Utilizing the current SWIB structure and protocols, the Program would enable eligible employees and employers to contribute to a pension pool similar to the state employees' fund and allow participation in variable rate as well as fixed rate fund options. Administrative costs would be absorbed by the state. Furthermore, because a Program participant's contributions would be voluntary and not connected to a particular employer's plan, the pension would be completely "portable," without any of the hassles involved in "rolling over" an account from one plan into another. Businesses with fewer than twenty-five employees and an annual profit of less than \$1 million eligible to participate in the VIP fund.

Wisconsin Family Investment and Retirement Stability Trust (Wisconsin FIRST)

Allows employees to participate in a deferred comp plan - Wisconsin FIRST parallels the state employees' deferred compensation program. Wisconsin FIRST would provide a tax-deferred savings option. Through Wisconsin FIRST, workers could invest pre-tax dollars into a choice of promising investments as identified by SWIB. The diversity of available investment options accommodates for asset allocation according to a wide range of risk tolerances, and investors would not pay income taxes on any returns until they took distributions. The state will absorb all expense associated with Wisconsin FIRST participation.

Joe Kremer
Office of Representative Jim Kreuser
Assembly Democratic Leader
201 West - State Capitol
(608) 266-5504

Champagne, Rick

From: Kremer, Joe
Sent: Monday, December 15, 2003 10:37 AM
To: Champagne, Rick
Subject: Bill Drafts

Rick,

Please find details of the bills below, feel free to call or e-mail with questions or comments. Offhand do you know about how long it will take to get a draft?

Best,

Joe

Wisconsin Voluntary Investment Program (Wisconsin VIP)

Allows eligible employees and employers to participate a retirement plan -

Utilizing the current SWIB structure and protocols, the Program would enable eligible employees and employers to contribute to a pension pool similar to the state employees' fund and allow participation in variable rate as well as fixed rate fund options. Administrative costs would be absorbed by the state. Furthermore, because a Program participant's contributions would be voluntary and not connected to a particular employer's plan, the pension would be completely "portable," without any of the hassles involved in "rolling over" an account from one plan into another. Businesses with fewer than twenty-five employees and an annual profit of less than \$1 million eligible to participate in the VIP fund.

Wisconsin Family Investment and Retirement Stability Trust (Wisconsin FIRST)

Allows employees to participate in a deferred comp plan - Wisconsin FIRST parallels the state employees' deferred compensation program. Wisconsin FIRST would provide a tax-deferred savings option. Through Wisconsin FIRST, workers could invest pre-tax dollars into a choice of promising investments as identified by SWIB. The diversity of available investment options accommodates for asset allocation according to a wide range of risk tolerances, and investors would not pay income taxes on any returns until they took distributions. The state will absorb all expense associated with Wisconsin FIRST participation.

Joe Kremer
Office of Representative Jim Kreuser
Assembly Democratic Leader
201 West - State Capitol
(608) 266-5504

Champagne, Rick

From: Kremer, Joe
Sent: Monday, December 15, 2003 12:59 PM
To: Champagne, Rick
Subject: RE: Bill Drafts

Rick,

Thank you for looking that over so quickly. Below, please find my comments to your questions, sorry for the lack of detail in the original.

Joe

-----Original Message-----

From: Champagne, Rick
Sent: Monday, December 15, 2003 11:38 AM
To: Kremer, Joe
Subject: RE: Bill Drafts

Joe,

Offhand, it is hard to precit until I get into the drafts. The information that you have provided is pretty sparse; I will try to flesh it out but many of the decisions I make in fleshing out the material will be policy ones that you will have to review. For example, consider the following:

1. Is there a cap on contributions or can employers and employees give anything they want?

[Kremer, Joe] The cap can be set at the same level as for State employees.

2. Can employers only fund highly paid or management employees and not all employees?

[Kremer, Joe] This would be left up to the companies, though all employees would be able to make contributions, regardless if the employer contributes

3. I will need to look at federal ERISA and Internal Revenue Code provisions to determine the tax status of these plans, but offhand I would predict that contributions by employers and employees will not be pre-tax or tax deductible under federal law. I will get back to you on this after I have a chance to review federal law. Certainly, you can provide tax deductions under state law for state income tax purposes.

[Kremer, Joe] Will call you about this to discuss.

4. You mention that the state will absorb all administrative costs. We will therefore need a GPR appropriation to fund these costs. SWIB is a trust fund agency and the trust funds it administers generally cannot absorb any costs incurred by other investment funds.

[Kremer, Joe] I was assuming this and should have put it in the write-up.

5. The phrase "annual profit" is not used in the statutes and it is unclear what it means. You may wish to use the concept of total net assets or annual sales.

[Kremer, Joe] I'll call you about this.

6. There may be some state securities law provisions in ch. 551 that need to be addressed. I'll speak to Rob Marchant about this.

7. In order to expedite the draft, I will attach the programs to SWIB and have SWIB simply design the programs by rule.

[Kremer, Joe] Sounds good, anywhere that you think we might be encumbering SWIB, please let me know.

8. In general, do you have any requirements that you would like to see SWIB implement with respect to the two programs?

[Kremer, Joe] No, and if you have any thoughts as to how we might best keep this as a low-requirement program on SWIB, please let me know.

Anyway, let me know what you think about these issues.

Rick

-----Original Message-----

From: Kremer, Joe
Sent: Monday, December 15, 2003 10:37 AM
To: Champagne, Rick
Subject: Bill Drafts

Rick,

Please find details of the bills below, feel free to call or e-mail with questions or comments. Offhand do you know about how long it will take to get a draft?

Best,

Joe

Wisconsin Voluntary Investment Program (Wisconsin VIP)

Allows eligible employees and employers to participate a retirement plan -

Utilizing the current SWIB structure and protocols, the Program would enable eligible employees and employers to contribute to a pension pool similar to the state employees' fund and allow participation in variable rate as well as fixed rate fund options. Administrative costs would be absorbed by the state. Furthermore, because a Program participant's contributions would be voluntary and not connected to a particular employer's plan, the pension would be completely "portable," without any of the hassles involved in "rolling over" an account from one plan into another. Businesses with fewer than twenty-five employees and an annual profit of less than \$1 million eligible to participate in the VIP fund.

Wisconsin Family Investment and Retirement Stability Trust (Wisconsin FIRST)

Allows employees to participate in a deferred comp plan - Wisconsin FIRST parallels the state employees' deferred compensation program. Wisconsin FIRST would provide a tax-deferred savings option. Through Wisconsin FIRST, workers could invest pre-tax dollars into a choice of promising investments as identified by SWIB. The diversity of available investment options accommodates for asset allocation according to a wide range of risk tolerances, and investors would not pay income taxes on any returns until they took distributions. The state will absorb all expense associated with Wisconsin FIRST participation.

Joe Kremer
Office of Representative Jim Kreuser
Assembly Democratic Leader
201 West - State Capitol
(608) 266-5504



(D-Nate)
State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-3883/1

RAC: King

FRI AM

2003 BILL

- gen. cat.

- 1 AN ACT ...; relating to: establishing a voluntary investment program to be
2 administered by the State of Wisconsin Investment Board for individuals who
3 are employed by certain businesses or organizations in the private sector that
4 are located in this state, requiring the exercise of rule-making authority, and
5 making appropriations.

Analysis by the Legislative Reference Bureau

→ This bill requires the State of Wisconsin Investment Board (SWIB) to establish by rule an investment program that will allow any individual and his or her employer to place funds with SWIB for investment. These funds, and any investment return on the funds, are to be paid to the individual upon retirement or termination of employment. The program is only available to an individual who is employed by a business or organization in the private sector that is located in this state and that employs fewer than 25 employees. To the extent practicable, SWIB must design the program with features similar to those of a qualified deferred compensation or profit-sharing plan that is governed by the federal Internal Revenue Code. Under the bill, all moneys received by SWIB from individuals and their employers are deposited in a Wisconsin voluntary investment trust fund and are held in trust for the sole benefit of the individuals. Finally, all costs and expenses incurred by SWIB in administering the program are to be paid from the general fund.

BILL

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.536 (1) (b) of the statutes is created to read:

2 20.536 (1) (b) Wisconsin voluntary investment program; operation costs and
3 expenses. A sum sufficient to pay all costs and expenses incurred by the investment
4 board relating to the operation of the Wisconsin voluntary investment program
5 under s. 25.188. ✓

6 **SECTION 2.** 20.536 (1) (r) of the statutes is created to read:

7 20.536 (1) (r) Wisconsin voluntary investment program; payments to
8 individuals. From the Wisconsin voluntary investment trust fund, a sum sufficient
9 to pay funds owing to individuals who participate in the Wisconsin voluntary
10 investment program under s. 25.188. ✓

11 **SECTION 3.** 25.17 (1) (yw) of the statutes is created to read:

12 25.17 (1) (yw) Wisconsin voluntary investment trust fund (s. 25.735); ✓

13 **SECTION 4.** 25.18 (1) (r) of the statutes is created to read:

14 25.18 (1) (r) Invest any of the assets of the Wisconsin voluntary investment
15 trust fund in any investment that is an authorized investment for assets in the fixed
16 retirement investment trust under s. 25.17 (4) ✓ or assets in the variable retirement
17 investment trust under s. 25.17 (5). ✓

18 **SECTION 5.** 25.187 (1) of the statutes is amended to read:

19 25.187 (1) In this section, "operating expenditures" include all costs and
20 expenses incurred by the investment board for the purpose of operating the board
21 and managing the assets of each fund for which the board has management

BILL

1 responsibility, but does not include costs or expenses incurred under s. 25.18 (1) (a),
2 (c), (f) or (m) or (2) (d) or (e), 25.188, or 40.04 (3) (intro.).

History: 1999 a. 9, 185.

3 **SECTION 6.** 25.188 of the statutes is created to read:

4 **25.188 Wisconsin voluntary investment program.** The board shall
5 establish by rule an investment program to permit any individual and his or her
6 employer to place moneys under the management of the board that are to be paid to
7 the individual upon retirement or termination of employment. The program shall
8 only be available to an individual who is employed by a business or organization in
9 the private sector that is located in this state and that employs fewer than 25
10 employees. To the extent practicable, the board shall design the program with
11 features similar to those of a qualified deferred compensation or profit-sharing plan
12 that is governed by the Internal Revenue Code, as defined for the current taxable
13 year under s. 71.01 (6). All moneys received by the board under the program from
14 individuals and their employers shall be deposited in the Wisconsin voluntary
15 investment trust fund and shall be held in trust for the sole benefit of the individuals.

16 **SECTION 7.** 25.735 of the statutes is created to read:

17 **25.735 Wisconsin voluntary investment trust fund.** There is established
18 a separate nonlapsible trust fund designated as the Wisconsin voluntary investment
19 trust fund, consisting of moneys received by the investment board under s. 25.188.

20

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3883/1dn

RAC: 2...

kmg

Representative Kreuser:

In this bill, I require the State of Wisconsin Investment Board (SWIB) to set up by rule an investment program for individuals and their private sector employers. The only restriction provided in the bill with respect to participation in the program is that the individual must be employed by a business or organization that is located in this state and that employs fewer than 25 individuals. I was unsure how to deal with the "profit" concept that was suggested in the instructions. Since earnings or sales is generally a more objective number than profit, which may be manipulated in any number of ways, you may wish to limit participation in the SWIB program based on earnings or sales of a certain amount. Please advise.

of which
Your original request was to create two programs: one of which was a pension pool sort of plan and the other was a deferred compensation plan in which individuals could invest pre-tax dollars. This bill combines the two requests, requiring SWIB simply to set up a program in which individuals or their employers can send in moneys for SWIB to manage and provides that SWIB is to pay these moneys, and any investment return or earnings, to the individuals at retirement or termination of employment. Under the bill, the moneys are held in trust and are for the sole benefit of the individuals. Please review carefully to make sure that the bill fulfills your intent and please note that state law has no control over Internal Revenue Code treatment of these moneys for federal tax purposes. If you wish, we could allow funds invested by an individual with SWIB to be pre-tax dollars, at least with respect to state income taxes. Please advise.

Because the bill requires SWIB to create the program almost entirely on its own and leaves all design features of the program to SWIB and the rule promulgation process, you may wish to share a copy of the bill with SWIB for their reaction on whether the program can be successfully implemented.

Rick A. Champagne
Senior Legislative Attorney
Phone: (608) 266-9930
E-mail: rick.champagne@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3883/1dn
RAC:kmg:pg

January 13, 2004

Representative Kreuser:

In this bill, I require the State of Wisconsin Investment Board (SWIB) to set up by rule an investment program for individuals and their private sector employers. The only restriction provided in the bill with respect to participation in the program is that the individual must be employed by a business or organization that is located in this state and that employs fewer than 25 individuals. I was unsure how to deal with the "profit" concept that was suggested in the instructions. Since earnings or sales is generally a more objective number than profit, which may be manipulated in any number of ways, you may wish to limit participation in the SWIB program based on earnings or sales of a certain amount. Please advise.

Your original request was to create two programs: one of which was a pension pool sort of plan and the other of which was a deferred compensation plan in which individuals could invest pre-tax dollars. This bill combines the two requests, requiring SWIB simply to set up a program in which individuals or their employers can send in moneys for SWIB to manage and provides that SWIB is to pay these moneys, and any investment return or earnings, to the individuals at retirement or termination of employment. Under the bill, the moneys are held in trust and are for the sole benefit of the individuals. Please review carefully to make sure that the bill fulfills your intent and please note that state law has no control over Internal Revenue Code treatment of these moneys for federal tax purposes. If you wish, we could allow funds invested by an individual with SWIB to be pre-tax dollars, at least with respect to state income taxes. Please advise.

Because the bill requires SWIB to create the program almost entirely on its own and leaves all design features of the program to SWIB and the rule promulgation process, you may wish to share a copy of the bill with SWIB for their reaction on whether the program can be successfully implemented.

Rick A. Champagne
Senior Legislative Attorney
Phone: (608) 266-9930
E-mail: rick.champagne@legis.state.wi.us



State of Wisconsin
2003 - 2004 LEGISLATURE

FRI

2003 BILL

LRB-3883/R
RAC/kmg/pg

8 MESBTR

RMR

D-N

Regen

1 AN ACT *to amend* 25.187 (1); and *to create* 20.536 (1) (b), 20.536 (1) (r), 25.17
2 (1) (yw), 25.18 (1) (r), 25.188 and 25.735 of the statutes; **relating to:**
3 establishing a voluntary investment program to be administered by the State
4 of Wisconsin Investment Board for individuals who are employed by certain
5 businesses or organizations in the private sector that are located in this state,
6 requiring the exercise of rule-making authority, and making appropriations.

Analysis by the Legislative Reference Bureau

This bill requires the State of Wisconsin Investment Board (SWIB) to establish by rule an investment program that will allow any individual and his or her employer to place funds with SWIB for investment. These funds, and any investment return on the funds, are to be paid to the individual upon retirement or termination of employment. The program is only available to an individual who is employed by a business or organization in the private sector that is located in this state and that employs fewer than 25 employees. To the extent practicable, SWIB must design the program with features similar to those of a qualified deferred compensation or profit-sharing plan that is governed by the federal Internal Revenue Code. Under the bill, all moneys received by SWIB from individuals and their employers are deposited in a Wisconsin voluntary investment trust fund and are held in trust for the sole benefit of the individuals. ~~Finally~~, all costs and expenses incurred by SWIB in administering the program are to be paid from the general fund.

INS
ANL
ME

In addition

BILL

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.536 (1) (b) of the statutes is created to read:

2 20.536 (1) (b) *Wisconsin Voluntary Investment Program; operation costs and*
3 *expenses.* A sum sufficient to pay all costs and expenses incurred by the investment
4 board relating to the operation of the Wisconsin Voluntary Investment Program
5 under s. 25.188.

6 **SECTION 2.** 20.536 (1) (r) of the statutes is created to read:

7 20.536 (1) (r) *Wisconsin Voluntary Investment Program; payments to*
8 *individuals.* From the Wisconsin voluntary investment trust fund, a sum sufficient
9 to pay funds owing to individuals who participate in the Wisconsin Voluntary
10 Investment Program under s. 25.188.

11 **SECTION 3.** 25.17 (1) (yw) of the statutes is created to read:

12 25.17 (1) (yw) Wisconsin voluntary investment trust fund (s. 25.735);

13 **SECTION 4.** 25.18 (1) (r) of the statutes is created to read:

14 25.18 (1) (r) Invest any of the assets of the Wisconsin voluntary investment
15 trust fund in any investment that is an authorized investment for assets in the fixed
16 retirement investment trust under s. 25.17 (4) or assets in the variable retirement
17 investment trust under s. 25.17 (5).

18 **SECTION 5.** 25.187 (1) of the statutes is amended to read:

19 25.187 (1) In this section, "operating expenditures" include all costs and
20 expenses incurred by the investment board for the purpose of operating the board
21 and managing the assets of each fund for which the board has management

BILL

1 responsibility, but does not include costs or expenses incurred under s. 25.18 (1) (a),
2 (c), (f) or (m) or (2) (d) or (e), 25.188, or 40.04 (3) (intro.).

3 **SECTION 6.** 25.188 of the statutes is created to read:

4 **25.188 Wisconsin Voluntary Investment Program.** The board shall
5 establish by rule an investment program to permit any individual and his or her
6 employer to place moneys under the management of the board that are to be paid to
7 the individual upon retirement or termination of employment. The program shall
8 only be available to an individual who is employed by a business or organization in
9 the private sector that is located in this state and that employs fewer than 25
10 employees. To the extent practicable, the board shall design the program with
11 features similar to those of a qualified deferred compensation or profit-sharing plan
12 that is governed by the Internal Revenue Code, as defined for the current taxable
13 year under s. 71.01 (6). All moneys received by the board under the program from
14 individuals and their employers shall be deposited in the Wisconsin voluntary
15 investment trust fund and shall be held in trust for the sole benefit of the individuals.

16 **SECTION 7.** 25.735 of the statutes is created to read:

17 **25.735 Wisconsin voluntary investment trust fund.** There is established
18 a separate nonlapsible trust fund designated as the Wisconsin voluntary investment
19 trust fund, consisting of moneys received by the investment board under s. 25.188.

20 (END) →

INS
3-19
MES

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3883/2insMES
RAC&MES&JK:kmg:pg

INS ANL MES

that
The bill also authorizes an individual to deduct from his or her federal adjusted gross income any amount of contributions ~~the individual makes to his or her account~~ that is established under the investment program created in this bill. All gains that accrue to such an account are also tax-exempt if the gains are redeposited into the account.

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

✓ INS 3-19 MES

SECTION 1. 71.05 (6) (b) 34. of the statutes is created to read:

71.05 (6) (b) 34. Any amount that is deposited by an individual in his or her account that is established under the Wisconsin voluntary investment program described under s. 25.188, and any interest, dividends, or other gain that accrues in the account if the interest, dividends, or other gain is redeposited in the account.

SECTION 2. Initial applicability.

(1) The treatment of sections 71.05 (6) (b) 34. of the statutes first applies to taxable years beginning on January 1 of the year in which this subsection takes effect, except that if this subsection takes effect after July 31 sections 71.05 (6) (b) 34. of the statutes first applies to taxable years beginning on January 1 of the year following the year in which this subsection takes effect.

{ { }

388/2 du

Representative Kreuser:

Please note that, under current law, ^{an} employer^r may deduct any amount contributed to the investment^s program created within bill from the employer^{er's} gross income, because such an amount is considered a business expense under the Internal Revenue Code. Therefore, this bill does not include any provision^{visions} related to employer deductions. Please contact me if you have any questions.

JK

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3883/2dn
JK:kmg:pg

January 15, 2004

Representative Kreuser:

Please note that, under current law, an employer may deduct any amount contributed to the investment program created in this bill from the employer's gross income, because such an amount is considered a business expense under the Internal Revenue Code. Therefore, this bill does not include any provisions related to employer deductions. Please contact me if you have any questions.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us

Need fiscal

estimate

started for

03-3883/2

MEMORANDUM

February 2, 2004

TO: Marc Shovers
Legislative Reference Bureau

FROM: Dennis Collier
Department of Revenue

SUBJECT: Technical Memorandum on LRB 3883/2: Investment of Certain Private Sector Employer and Employee Moneys

Typically under a deferred compensation program, any amount withdrawn is taxable income. If this is the intent, an addition modification would be needed in sec. 71.05(6)(a) to provide for the state taxation of the withdrawal. It appears that under the plan, the individual would not receive a federal deduction for the amount deferred or for the earnings on the account, and therefore, the amount withdrawn would not be taxable federally.

If the intent is to have a penalty for early withdrawals prior to a specified age, similar to the federal penalty, penalty provisions would be needed in sec. 71.83.

If you have questions regarding this technical memorandum, please contact Karyn Kriz at 261-8984.

Copy sent to Rep. Kreuser (2/5/04)

Technical memo is for old "1/2" version
Draft is now a "1/4"

Fiscal Estimate - 2003 Session

☒ Original ☐ Updated ☐ Corrected ☐ Supplemental

LRB Number 03-3883/2		Introduction Number	
Subject Investment of certain private sector employer and employee moneys, income tax exemptions			
Fiscal Effect			
State:			
<input type="checkbox"/> No State Fiscal Effect			
<input type="checkbox"/> Indeterminate			
<input type="checkbox"/> Increase Existing Appropriations		<input type="checkbox"/> Increase Existing Revenues	
<input type="checkbox"/> Decrease Existing Appropriations		<input checked="" type="checkbox"/> Decrease Existing Revenues	
<input type="checkbox"/> Create New Appropriations		<input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget	
		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
		<input type="checkbox"/> Decrease Costs	
Local:			
<input type="checkbox"/> No Local Government Costs			
<input type="checkbox"/> Indeterminate			
1. <input type="checkbox"/> Increase Costs		3. <input type="checkbox"/> Increase Revenue	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory		<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
2. <input type="checkbox"/> Decrease Costs		4. <input type="checkbox"/> Decrease Revenue	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory		<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
5. Types of Local Government Units Affected			
<input type="checkbox"/> Towns		<input type="checkbox"/> Village	
<input type="checkbox"/> Counties		<input type="checkbox"/> Others	
<input type="checkbox"/> School Districts		<input type="checkbox"/> WTCS Districts	
<input type="checkbox"/> Cities			
Fund Sources Affected			
<input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS			
Affected Ch. 20 Appropriations			
Agency/Prepared By		Authorized Signature	
DOR/ Karyn Kriz (608) 261-8984		Dennis Collier (608) 266-5773	
		Date	
		2/5/2004	

copy sent to
Rep. Kreuser
(2/5/04)
→ FE is for old "1/2" version
→ draft is now a "1/4"

Fiscal Estimate Narratives

DOR 2/5/2004

LRB Number	03-3883/2	Introduction Number	Estimate Type	Original
Subject				
Investment of certain private sector employer and employee moneys, income tax exemptions				

Assumptions Used in Arriving at Fiscal Estimate

This bill would require the State of Wisconsin Investment Board (SWIB) to create an investment program. Private sector Wisconsin employees who work at a business or organization that employs fewer than 25 employees and their employers would be allowed to place funds with SWIB for investment. These funds and any investment return on the funds would be paid to individuals upon retirement or termination of employment. This bill would allow an individual to deduct from federal adjusted gross income any amount of contributions the individual makes to his or her account under this program. Gains that accrue to such an account are also tax-exempt if the gains are redeposited into the account.

According to the U.S. Census Bureau's County Business Patterns, there were about 121,000 establishments in Wisconsin with fewer than 25 employees in 2001. If all employees at these establishments place funds with SWIB for investment, about 660,000 employees would be eligible for the state tax exemption. There are no data available on the total amount that would be invested in the proposed program. However, if it were assumed that each employee contributes \$1,000 to his or her account, \$661 million ($660,000 \times \$1,000$) of contributions would be made each year. Assuming an average marginal tax rate of 5.5%, this bill would result in a \$36 million ($\$661 \text{ million} \times .055$) decrease in state income tax revenues.

However, based on discussions with SWIB, this program is not expected to be very popular and it is assumed that about 1% of the tax filing population of 2.7 million, or 27,000 filers, would participate in this program. Assuming each of the participating 27,000 filers contributes \$1,000 annually and assuming an average marginal tax rate of 5.5%, state income tax revenues would decrease by \$1.5 million ($27,000 \times \$1,000 \times .055$). However, the actual cost of the program could be higher or lower depending on the number of participants in the program and the annual amount contributed to the accounts.

Long-Range Fiscal Implications

Fiscal Estimate Worksheet - 2003 Session

Detailed Estimate of Annual Fiscal Effect



Original



Updated



Corrected



Supplemental

LRB Number 03-3883/2		Introduction Number	
Subject			
Investment of certain private sector employer and employee moneys, income tax exemptions			
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):			
II. Annualized Costs:		Annualized Fiscal Impact on funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes	\$		
(FTE Position Changes)			
State Operations - Other Costs			
Local Assistance			
Aids to Individuals or Organizations			
TOTAL State Costs by Category	\$	\$	
B. State Costs by Source of Funds			
GPR			
FED			
PRO/PRS			
SEG/SEG-S			
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)			
	Increased Rev	Decreased Rev	
GPR Taxes	\$	\$	
GPR Earned			
FED			
PRO/PRS			
SEG/SEG-S			
TOTAL State Revenues	\$	\$	
NET ANNUALIZED FISCAL IMPACT			
	State	Local	
NET CHANGE IN COSTS	\$	\$	
NET CHANGE IN REVENUE	\$SeeText	\$	
Agency/Prepared By		Authorized Signature	Date
DOR/ Karyn Kriz (608) 261-8984		Dennis Collier (608) 266-5773	2/5/2004



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-3883/2 3

RAC&MES&JK:kmg:pg

Tues

RMR

2003 BILL

1 AN ACT *to amend* 25.187 (1); and *to create* 20.536 (1) (b), 20.536 (1) (r), 25.17
2 (1) (yw), 25.18 (1) (r), 25.188, 25.735 and 71.05 (6) (b) 34. of the statutes;
3 **relating to:** establishing a voluntary investment program to be administered
4 by the State of Wisconsin Investment Board for individuals who are employed
5 by certain businesses or organizations in the private sector that are located in
6 this state, requiring the exercise of rule-making authority, and making
7 appropriations.

Gen. Cat.

Analysis by the Legislative Reference Bureau

This bill requires the State of Wisconsin Investment Board (SWIB) to establish by rule an investment program that will allow any individual and his or her employer to place funds with SWIB for investment. These funds, and any investment return on the funds, are to be paid to the individual upon retirement or termination of employment. The program is only available to an individual who is employed by a business or organization in the private sector that is located in this state and that employs fewer than 25 employees. To the extent practicable, SWIB must design the program with features similar to those of a qualified deferred compensation or profit-sharing plan that is governed by the federal Internal Revenue Code. Under the bill, all moneys received by SWIB from individuals and their employers are deposited in a Wisconsin voluntary investment trust fund and are held in trust for

1, provided that SWIB has determined that such a program is feasible under federal law

12

BILL

the sole benefit of the individuals. In addition, all costs and expenses incurred by SWIB in administering the program are to be paid from the general fund.

The bill also authorizes an individual to deduct from his or her federal adjusted gross income any amount of contributions that the individual makes to his or her account that is established under the investment program created in this bill. All gains that accrue to such an account are also tax-exempt if the gains are redeposited into the account.

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.536 (1) (b) of the statutes is created to read:

2 20.536 (1) (b) *Wisconsin Voluntary Investment Program; operation costs and*
3 *expenses.* A sum sufficient to pay all costs and expenses incurred by the investment
4 board relating to the operation of the Wisconsin Voluntary Investment Program
5 under s. 25.188.

6 **SECTION 2.** 20.536 (1) (r) of the statutes is created to read:

7 20.536 (1) (r) *Wisconsin Voluntary Investment Program; payments to*
8 *individuals.* From the Wisconsin voluntary investment trust fund, a sum sufficient
9 to pay funds owing to individuals who participate in the Wisconsin Voluntary
10 Investment Program under s. 25.188.

11 **SECTION 3.** 25.17 (1) (yw) of the statutes is created to read:

12 25.17 (1) (yw) Wisconsin voluntary investment trust fund (s. 25.735);

13 **SECTION 4.** 25.18 (1) (r) of the statutes is created to read:

14 25.18 (1) (r) Invest any of the assets of the Wisconsin voluntary investment
15 trust fund in any investment that is an authorized investment for assets in the fixed

Insert 2-6

BILL

1 retirement investment trust under s. 25.17 (4) or assets in the variable retirement
2 investment trust under s. 25.17 (5).

3 **SECTION 5.** 25.187 (1) of the statutes is amended to read:

4 25.187 (1) In this section, "operating expenditures" include all costs and
5 expenses incurred by the investment board for the purpose of operating the board
6 and managing the assets of each fund for which the board has management
7 responsibility, but does not include costs or expenses incurred under s. 25.18 (1) (a),
8 (c), (f) or (m) or (2) (d) or (e), 25.188, or 40.04 (3) (intro.).

9 **SECTION 6.** 25.188 of the statutes is created to read:

✓
Insert
3-10
10 **25.188 Wisconsin Voluntary Investment Program.** ~~The~~ board shall
11 establish by rule an investment program to permit any individual and his or her
12 employer to place moneys under the management of the board that are to be paid to
13 the individual upon retirement or termination of employment. The program shall
14 only be available to an individual who is employed by a business or organization in
15 the private sector that is located in this state and that employs fewer than 25
16 employees. To the extent practicable, the board shall design the program with
17 features similar to those of a qualified deferred compensation or profit-sharing plan
18 that is governed by the Internal Revenue Code, as defined for the current taxable
19 year under s. 71.01 (6). All moneys received by the board under the program from
20 individuals and their employers shall be deposited in the Wisconsin voluntary
21 investment trust fund and shall be held in trust for the sole benefit of the individuals.

22 **SECTION 7.** 25.735 of the statutes is created to read:

23 **25.735 Wisconsin voluntary investment trust fund.** There is established
24 a separate nonlapsible trust fund designated as the Wisconsin voluntary investment
25 trust fund, consisting of moneys received by the investment board under s. 25.188.

BILL

1 **SECTION 8.** 71.05 (6) (b) 34. of the statutes is created to read:

2 71.05 (6) (b) 34. Any amount that is deposited by an individual in his or her
3 account that is established under the Wisconsin Voluntary Investment Program
4 described under s. 25.188, and any interest, dividends, or other gain that accrues in
5 the account if the interest, dividends, or other gain is redeposited in the account.

6 **SECTION 9. Initial applicability.**

7 (1) The treatment of section 71.05 (6) (b) 34. of the statutes first applies to
8 taxable years beginning on January 1 of the year in which this subsection takes
9 effect, except that if this subsection takes effect after July 31 section 71.05 (6) (b) 34.
10 of the statutes first applies to taxable years beginning on January 1 of the year
11 following the year in which this subsection takes effect.

12 (END)

✓
Insert
4-6

**2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3883/3ins
RAC:.....

Insert 2-6: ✓

SECTION 1. 20.536 (1) (c) of the statutes is created to read:

20.536 (1) (c) *Wisconsin Voluntary Investment Program; feasibility study.* A sum sufficient ^①not to exceed \$1,000,000 ^②to conduct the study under 2003 Wisconsin Act (this Act), section ~~9~~ ⁹(1).
auto ref. "KB"
auto ref. "KA"

Insert 3-10: ✓

Not If the board concludes from the study conducted under 2003 Wisconsin Act (this Act), section ~~9~~ ⁹(1) ⁹that it is feasible under federal law, the

Insert 4-6: ✓

SECTION 2. Nonstatutory provisions.

[#]
(1) ^{auto ref. "KB"}FEASIBILITY STUDY. The investment board shall study the feasibility under federal law of establishing and administering the Wisconsin Voluntary Investment Program under section 25.188 of the statutes, as created by this act. The investment board shall complete the study no later than June 30, 2005.

auto ref. "KA"

auto ref. "KB"

Memo

To: Senator ☐ Representative ☒ **Kreuser**

(The Draft's Requester)

Per your request: ... the attached fiscal estimate was prepared for your unIntroduced 2003 draft.

LRB Number: LRB **- 3883**

Version: **" / 3 "**

Fiscal Estimate Prepared By: (agency abbr.) **INV**

If you have questions about the enclosed fiscal estimate, you may contact the state agency representative that prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

Entered In Computer And Copy Sent To Requester Via E-Mail: **02 / 02 / 2004**

* * * * *

To: LRB – Legal Section PA's

Subject: *Fiscal Estimate Received For An Unintroduced Draft*

> **If redrafted** ... please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version.

> **If introduced** ... and the version of the attached fiscal estimate is for a **previous version** ... please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version. Have Mike (or Lynn) get the ball rolling on getting a fiscal estimate prepared for the introduced version.

> **If introduced** ... and the version of the attached fiscal estimate is for the **current version** ... please write the draft's introduction number below and give to Mike (or Lynn) to process.

THIS DRAFT WAS INTRODUCED AS: 2003 _____

Barman, Mike

From: Barman, Mike
Sent: Monday, February 02, 2004 9:41 AM
To: Rep.Kreuser
Subject: LRB 03-3883/3 (FE by INV - attached- for your review)



FE_Kreuser.pdf

Fiscal Estimate - 2003 Session

☒ Original ☐ Updated ☐ Corrected ☐ Supplemental

LRB Number 03-3883/3		Introduction Number
Subject Investment of certain private sector employer and employee moneys, income tax exemptions		
Fiscal Effect State: <div style="display: flex; flex-wrap: wrap;"><div style="width: 33%;"><input type="checkbox"/> No State Fiscal Effect <input checked="" type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Decrease Existing Appropriations <input checked="" type="checkbox"/> Create New Appropriations</div><div style="width: 33%;"><input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues</div><div style="width: 33%;"><input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Decrease Costs</div></div> Local: <div style="display: flex; flex-wrap: wrap;"><div style="width: 33%;"><input type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate 1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</div><div style="width: 33%;"><div style="display: flex;"><div style="width: 50%;">3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</div><div style="width: 50%;">4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</div></div></div><div style="width: 33%;">5. Types of Local Government Units Affected <div style="display: flex; flex-wrap: wrap;"><div style="width: 33%;"><input type="checkbox"/> Towns <input type="checkbox"/> Counties <input type="checkbox"/> School Districts</div><div style="width: 33%;"><input type="checkbox"/> Village <input type="checkbox"/> Others <input type="checkbox"/> WTCS Districts</div><div style="width: 33%;"><input type="checkbox"/> Cities</div></div></div></div>		

Fund Sources Affected
☒ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEGS 20.536

Affected Ch. 20 Appropriations

Fiscal Estimate Narratives

INV 2/2/2004

LRB Number 03-3883/3	Introduction Number	Estimate Type	Original
Subject			
Investment of certain private sector employer and employee moneys, income tax exemptions			

Assumptions Used in Arriving at Fiscal Estimate

LRB 3883/3 requires SWIB to conduct a feasibility study to determine if federal law would permit SWIB to establish an investment program for non-public employees, to be called the Wisconsin Voluntary Investment Trust Fund (WVITF), and to invest the assets of the trust. The bill appropriates a sum sufficient appropriation of up to \$1,000,000 to conduct the feasibility study.

If the study determines that such a program is permissible under federal law, SWIB would be required to create the program by rule and make it available to any individual in the state who is employed by an employer with less than 25 employees. The bill directs SWIB to model the program, to the extent possible, similar to a federally qualified deferred compensation or profit-sharing plan. All monies deposited in the trust fund would be held and invested solely for the benefit of the individuals. All costs and expenses incurred by SWIB to administer the program would be paid from the general fund. SWIB would invest the assets of the fund in any of the type investments authorized for the Fixed Retirement Investment Trust or the Variable Retirement Investment Trust of the Wisconsin Retirement System (WRS).

As a public entity, SWIB is not required to register with the Securities and Exchange Commission and is not subject to any state or federal licensing as an institutional investor. The Trustees and staff are protected from individual liability as they are covered under the state's umbrella liability coverage.

In developing this estimate, SWIB made the following assumptions:

1. To conduct a feasibility study to determine if the program could be established under federal law, SWIB will contract with private attorneys to:
 - a. Research the Internal Revenue Code and securities laws to determine which laws apply and what SWIB must do to comply;
 - b. Determine any restrictions that apply to the Board's fiduciary responsibilities to the public funds it currently invests;
 - c. Establish the costs to apply for and maintain all necessary licenses required by state and federal securities' regulators;
 - d. Determine which pension requirements under the Employee Retirement Income Security Act (ERISA) apply and what SWIB must do to comply
 - e. Research trust and fiduciary law to determine how such a program could be established and, if created, what effect it would have on the trustees and the public funds that they currently oversee.
 - f. Secure rulings from the SEC and the IRS that administering and investing a pension program for private employees would not adversely affect the tax qualification status of the Wisconsin Retirement System.
 - g. Determine if boards of other public pension funds administer any funds for private individuals and, if so, the results.
 - h. Recommend if current board of trustees could oversee the program or if it would be necessary to create a separate board to invest the fund's assets if created.
 - i. Review the state's sovereignty and its potential liability after establishing a program for private employers and employees.
 - j. Determine if the Trustees and staff will be protected by the state in lawsuits.

The feasibility study will be funded from the sum sufficient appropriation created for that purpose. Once the feasibility study is completed and if it is found that it would be permissible under federal law to create the program for private employers and employees, SWIB would need to do a cost analysis and a market research study prior to establishing the program. In addition to the costs of a feasibility study funded by the bill, there would be significant start-up and ongoing expense to administer a program. Until the feasibility study is completed, it is impossible to estimate what it would cost or the number of additional staff required to establish and to maintain such a program. The public's interest and participation in the program will have

a significant effect on the ongoing costs -- the fewer participants, the higher the costs per participant.

Long-Range Fiscal Implications

Ongoing.

MEMORANDUM

February 2, 2004

TO: Marc Shovers
Legislative Reference Bureau

FROM: Dennis Collier
Department of Revenue

SUBJECT: Technical Memorandum on LRB 3883/3: Investment of Certain Private Sector Employer and Employee Moneys

Typically under a deferred compensation program, any amount withdrawn is taxable income. If this is the intent, an addition modification would be needed in sec. 71.05(6)(a) to provide for the state taxation of the withdrawal. It appears that under the plan, the individual would not receive a federal deduction for the amount deferred or for the earnings on the account, and therefore, the amount withdrawn would not be taxable federally.

If the intent is to have a penalty for early withdrawals prior to a specified age, similar to the federal penalty, penalty provisions would be needed in sec. 71.83.

If you have questions regarding this technical memorandum, please contact Karyn Kriz at 261-8984.

Copy sent to Rep. Kreuser (2/5/04)
Technical memo is for old "13" version
Draft is now a "14"

Fiscal Estimate - 2003 Session

☒ Original ☐ Updated ☐ Corrected ☐ Supplemental

LRB Number 03-3883/3		Introduction Number	
Subject Investment of certain private sector employer and employee moneys, income tax exemptions			
Fiscal Effect			
State:			
<input type="checkbox"/> No State Fiscal Effect			
<input type="checkbox"/> Indeterminate			
<input type="checkbox"/> Increase Existing Appropriations		<input type="checkbox"/> Increase Existing Revenues	
<input type="checkbox"/> Decrease Existing Appropriations		<input checked="" type="checkbox"/> Decrease Existing Revenues	
<input type="checkbox"/> Create New Appropriations		<input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget	
		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
		<input type="checkbox"/> Decrease Costs	
Local:			
<input type="checkbox"/> No Local Government Costs			
<input type="checkbox"/> Indeterminate			
1. <input type="checkbox"/> Increase Costs		3. <input type="checkbox"/> Increase Revenue	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory		<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
2. <input type="checkbox"/> Decrease Costs		4. <input type="checkbox"/> Decrease Revenue	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory		<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
5. Types of Local Government Units Affected			
<input type="checkbox"/> Towns		<input type="checkbox"/> Village	
<input type="checkbox"/> Counties		<input type="checkbox"/> Others	
<input type="checkbox"/> School Districts		<input type="checkbox"/> WTCS Districts	
<input type="checkbox"/> Cities			
Fund Sources Affected			
<input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS			
Affected Ch. 20 Appropriations			
Agency/Prepared By DOR/ Karyn Kriz (608) 261-8984		Authorized Signature Dennis Collier (608) 266-5773	
		Date 2/5/2004	

Copy sent to Rep. Kreuser (2/5/04)
FE is for old "1/3" version
draft is now a "1/4"

Fiscal Estimate Narratives

DOR 2/5/2004

LRB Number 03-3883/3	Introduction Number	Estimate Type	Original
Subject			
Investment of certain private sector employer and employee moneys, income tax exemptions			

Assumptions Used in Arriving at Fiscal Estimate

This bill would require the State of Wisconsin Investment Board (SWIB) to create an investment program; SWIB must first determine if the program is feasible under federal law. Private sector Wisconsin employees who work at a business or organization that employs fewer than 25 employees and their employers would be allowed to place funds with SWIB for investment. These funds and any investment return on the funds would be paid to individuals upon retirement or termination of employment. This bill would allow an individual to deduct from federal adjusted gross income any amount of contributions the individual makes to his or her account under this program. Gains that accrue to such an account are also tax-exempt if the gains are redeposited into the account.

According to the U.S. Census Bureau's County Business Patterns, there were about 121,000 establishments in Wisconsin with fewer than 25 employees in 2001. If all employees at these establishments place funds with SWIB for investment, about 660,000 employees would be eligible for the state tax exemption. There are no data available on the total amount that would be invested in the proposed program. However, if it were assumed that each employee contributes \$1,000 to his or her account, \$661 million ($660,000 \times \$1,000$) of contributions would be made each year. Assuming an average marginal tax rate of 5.5%, this bill would result in a \$36 million ($\$661 \text{ million} \times .055$) decrease in state income tax revenues.

However, based on discussions with SWIB, this program is not expected to be very popular and it is assumed that about 1% of the tax filing population of 2.7 million, or 27,000 filers, would participate in this program. Assuming each of the participating 27,000 filers contributes \$1,000 annually and assuming an average marginal tax rate of 5.5%, state income tax revenues would decrease by \$1.5 million ($27,000 \times \$1,000 \times .055$). However, the actual cost of the program could be higher or lower depending on the number of participants in the program and the annual amount contributed to the accounts.

Long-Range Fiscal Implications

Fiscal Estimate Worksheet - 2003 Session

Detailed Estimate of Annual Fiscal Effect



Original



Updated



Corrected



Supplemental

LRB Number 03-3883/3		Introduction Number	
Subject Investment of certain private sector employer and employee moneys, income tax exemptions			
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):			
II. Annualized Costs:		Annualized Fiscal Impact on funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
	State Operations - Salaries and Fringes	\$	
	(FTE Position Changes)		
	State Operations - Other Costs		
	Local Assistance		
	Aids to Individuals or Organizations		
	TOTAL State Costs by Category	\$	\$
B. State Costs by Source of Funds			
	GPR		
	FED		
	PRO/PRS		
	SEG/SEG-S		
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)			
		Increased Rev	Decreased Rev
	GPR Taxes	\$	\$
	GPR Earned		
	FED		
	PRO/PRS		
	SEG/SEG-S		
	TOTAL State Revenues	\$	\$
NET ANNUALIZED FISCAL IMPACT			
		State	Local
	NET CHANGE IN COSTS	\$	\$
	NET CHANGE IN REVENUE	\$SeeText	\$
Agency/Prepared By DOR/ Karyn Kriz (608) 261-8984			
Authorized Signature Dennis Collier (608) 266-5773		Date 2/5/2004	



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-3883/3 4
RAC/MES/JK:kmg:jf

Sean
2003 BILL

RMR

Am. Cal.

1 AN ACT *to amend* 25.187 (1); and *to create* 20.536 (1) (b), 20.536 (1) (c), 20.536
2 (1) (r), 25.17 (1) (yw), 25.18 (1) (r), 25.188, 25.735 and 71.05 (6) (b) 34. of the
3 statutes; **relating to:** establishing a voluntary investment program to be
4 administered by the State of Wisconsin Investment Board for individuals who
5 are employed by certain businesses or organizations in the private sector that
6 are located in this state, requiring the exercise of rule-making authority, and
7 making appropriations.

Analysis by the Legislative Reference Bureau

→ This bill requires the State of Wisconsin Investment Board (SWIB) to establish by rule an investment program that will allow any individual and his or her employer to place funds with SWIB for investment, ~~if SWIB has determined that such a program is feasible under federal law.~~ These funds, and any investment return on the funds, are to be paid to the individual upon retirement or termination of employment. The program is only available to an individual who is employed by a business or organization in the private sector that is located in this state and that employs fewer than 25 employees. To the extent practicable, SWIB must design the program with features similar to those of a qualified deferred compensation or profit-sharing plan that is governed by the federal Internal Revenue Code. Under the bill, all moneys received by SWIB from individuals and their employers are

BILL

deposited in a Wisconsin voluntary investment trust fund and are held in trust for the sole benefit of the individuals. ~~In addition, all costs and expenses incurred by SWIB in administering the program are to be paid from the general fund.~~

The bill also authorizes an individual to deduct from his or her federal adjusted gross income any amount of contributions that the individual makes to his or her account that is established under the investment program created in this bill. All gains that accrue to such an account are also tax-exempt if the gains are redeposited into the account.

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.536 (1) (b) of the statutes is created to read:

2 ~~20.536 (1) (b) *Wisconsin Voluntary Investment Program; operation costs and*~~
3 ~~*expenses.* A sum sufficient to pay all costs and expenses incurred by the investment~~
4 ~~board relating to the operation of the Wisconsin Voluntary Investment Program~~
5 ~~under s. 25.188.~~

6 **SECTION 2.** 20.536 (1) (c) of the statutes is created to read:

7 ~~20.536 (1) (c) *Wisconsin Voluntary Investment Program; feasibility study.* A~~
8 ~~sum sufficient, not to exceed \$1,000,000, to conduct the study under 2003 Wisconsin~~
9 ~~Act (this act), section 10 (1).~~

10 **SECTION 3.** 20.536 (1) (r) of the statutes is created to read:

11 20.536 (1) (r) *Wisconsin Voluntary Investment Program; payments to*
12 *individuals.* From the Wisconsin voluntary investment trust fund, a sum sufficient
13 to pay funds owing to individuals who participate in the Wisconsin Voluntary
14 Investment Program under s. 25.188.

15 **SECTION 4.** 25.17 (1) (yw) of the statutes is created to read:

BILL

25.17 (1) (yw) Wisconsin voluntary investment trust fund (s. 25.735);

SECTION 5. 25.18 (1) (r) of the statutes is created to read:

25.18 (1) (r) Invest any of the assets of the Wisconsin voluntary investment trust fund in any investment that is an authorized investment for assets in the fixed retirement investment trust under s. 25.17 (4) or assets in the variable retirement investment trust under s. 25.17 (5).

SECTION 6. 25.187 (1) of the statutes is amended to read:

~~25.187 (1) In this section, "operating expenditures" include all costs and expenses incurred by the investment board for the purpose of operating the board and managing the assets of each fund for which the board has management responsibility, but does not include costs or expenses incurred under s. 25.18 (1) (a), (c), (f) or (m) or (2) (d) or (e), 25.188, or 40.04 (3) (intro.).~~

SECTION 7. 25.188 of the statutes is created to read:

25.188 Wisconsin Voluntary Investment Program. ~~If the board concludes (from the study conducted under 2003 Wisconsin Act ... (this act), section 10 (1) that it is feasible under federal law, the~~ ^{The} board shall establish by rule an investment program to permit any individual and his or her employer to place moneys under the management of the board that are to be paid to the individual upon retirement or termination of employment. The program shall only be available to an individual who is employed by a business or organization in the private sector that is located in this state and that employs fewer than 25 employees. To the extent practicable, the board shall design the program with features similar to those of a qualified deferred compensation or profit-sharing plan that is governed by the Internal Revenue Code, as defined for the current taxable year under s. 71.01 (6). All moneys received by the board under the program from individuals and their employers shall

BILL

1 be deposited in the Wisconsin voluntary investment trust fund and shall be held in
2 trust for the sole benefit of the individuals.

3 **SECTION 8.** 25.735 of the statutes is created to read:

4 **25.735 Wisconsin voluntary investment trust fund.** There is established
5 a separate nonlapsible trust fund designated as the Wisconsin voluntary investment
6 trust fund, consisting of moneys received by the investment board under s. 25.188.

7 **SECTION 9.** 71.05 (6) (b) 34. of the statutes is created to read:

8 71.05 (6) (b) 34. Any amount that is deposited by an individual in his or her
9 account that is established under the Wisconsin Voluntary Investment Program
10 described under s. 25.188, and any interest, dividends, or other gain that accrues in
11 the account if the interest, dividends, or other gain is redeposited in the account.

12 **SECTION 10. Nonstatutory provisions.**

13 (1) ~~FEASIBILITY STUDY.~~ The investment board shall study the feasibility under
14 federal law of establishing and administering the Wisconsin Voluntary Investment
15 Program under section 25.188 of the statutes, as created by this act. The investment
16 board shall complete the study no later than June 30, 2005.

17 **SECTION 11. Initial applicability.**

18 (1) The treatment of section 71.05 (6) (b) 34. of the statutes first applies to
19 taxable years beginning on January 1 of the year in which this subsection takes
20 effect, except that if this subsection takes effect after July 31 section 71.05 (6) (b) 34.
21 of the statutes first applies to taxable years beginning on January 1 of the year
22 following the year in which this subsection takes effect.

23 (END)

3 8 8 3 | 4

40 3 5 | 3

FEC's needed
PWA
RAC

Emery, Lynn

From: Kremer, Joe
Sent: Wednesday, February 04, 2004 3:39 PM
To: LRB.Legal
Subject: Draft review: LRB 03-3883/4 Topic: Investment of certain private sector employer and employee moneys, income tax exemptions

It has been requested by <Kremer, Joe> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 03-3883/4 Topic: Investment of certain private sector employer and employee moneys, income tax exemptions



STEPHEN R. MILLER
CHIEF

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
P. O. BOX 2037
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-8522

REFERENCE SECTION: (608) 266-0341
REFERENCE FAX: (608) 266-5648

LRB

February 13, 2004

MEMORANDUM

To: Representative Kreuser

From: Marc E. Shovers, Sr. Legislative Attorney, (608) 266-0129

Subject: Technical Memorandum to **unintroduced** (LRB 03-3883/4)

We received the attached technical memorandum relating to your bill. This copy is for your information and your file. I believe that the Department of Revenue is correct in the first point that they raise. To ensure that amounts withdrawn from the account are taxable, the bill should be redrafted to include an "add modification" in s. 71.05 (6) (a).

With regard to the second paragraph of the memo, I believe that DOR's comment on this policy issue is correct. If your intent is to provide a penalty for early withdrawals before a specified age, penalty provisions would need to be added to the bill

If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

LRB

MEMORANDUM

February 11, 2004

TO: Marc Shovers
Legislative Reference Bureau

FROM: Dennis Collier
Department of Revenue

SUBJECT: Technical Memorandum on LRB 3883/4: Investment of Certain Private Sector Employer and Employee Moneys

Typically under a deferred compensation program, any amount withdrawn is taxable income. If this is the intent, an addition modification would be needed in sec. 71.05(6)(a) to provide for the state taxation of the withdrawal. It appears that under the plan, the individual would not receive a federal deduction for the amount deferred or for the earnings on the account, and therefore, the amount withdrawn would not be taxable federally.

If the intent is to have a penalty for early withdrawals prior to a specified age, similar to the federal penalty, penalty provisions would be needed in sec. 71.83.

If you have questions regarding this technical memorandum, please contact Karyn Kriz at 261-8984.

Memo

To: Senator ☐

Representative ☒

Kreuser

(The Draft's Requester)

Per your request: ... the attached fiscal estimate was prepared for your unIntroduced 2003 draft.

LRB Number: LRB - 3883

Version: "14"

Fiscal Estimate Prepared By: (agency abbr.) DOR

If you have questions about the enclosed fiscal estimate, you may contact the state agency representative that prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

Entered In Computer And Copy Sent To Requester Via E-Mail: 2 / 11 / 2004

* * * * *

To: LRB - Legal Section PA's

Subject: *Fiscal Estimate Received For An Unintroduced Draft*

> **If redrafted** ... please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version.

> **If introduced** ... and the version of the attached fiscal estimate is for a **previous version** ... please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version. Have Mike (or Lynn) get the ball rolling on getting a fiscal estimate prepared for the introduced version.

> **If introduced** ... and the version of the attached fiscal estimate is for the **current version** ... please write the draft's introduction number below and give to Mike (or Lynn) to process.

THIS DRAFT WAS INTRODUCED AS: 2003 _____

Emery, Lynn

From: Emery, Lynn
Sent: Wednesday, February 11, 2004 4:31 PM
To: Rep.Kreuser
Subject: LRB-3883/4 (FE by DOR - attached - for your review)



03-3883feDOR.pdf

Lynn Emery
Program Assistant
Legislative Reference Bureau
608-266-3561
lynn.emery@legis.state.wi.us

Memo

To: Senator ☐

Representative ☒

Kreuser

(The Draft's Requester)

Per your request: ... the attached fiscal estimate was prepared for your unIntroduced 2003 draft.

LRB Number: LRB **-3883**

Version: **"/ 4 "**

Fiscal Estimate Prepared By: (agency abbr.) **INV**

If you have questions about the enclosed fiscal estimate, you may contact the state agency representative that prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

Entered In Computer And Copy Sent To Requester Via E-Mail: **02 / 11** / 2004

* * * * *

To: LRB - Legal Section PA's

Subject: *Fiscal Estimate Received For An Unintroduced Draft*

> **If redrafted** ... please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version.

> **If introduced** ... and the version of the attached fiscal estimate is for a **previous version** ... please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version. Have Mike (or Lynn) get the ball rolling on getting a fiscal estimate prepared for the introduced version.

> **If introduced** ... and the version of the attached fiscal estimate is for the **current version** ... please write the draft's introduction number below and give to Mike (or Lynn) to process.

THIS DRAFT WAS INTRODUCED AS: 2003 _____

Barman, Mike

From: Barman, Mike
Sent: Wednesday, February 11, 2004 9:39 AM
To: Rep.Kreuser
Subject: LRB 03-3883/4 (FE by INV - attached - for your review)



FE_Kreuser.pdf